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असाधारण

EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 22nd August, 2003:—

BILL NO. 21 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2003.

Short title.

2. After article 356 of the Constitution, the following article shall be inserted, namely,—

Insertion of new article 356A.

“356A. (1) Notwithstanding anything in this Constitution, as soon as the Election Commission announces the dates for elections to the Legislative Assembly of a State, the State Legislative Assembly shall automatically stand dissolved and the President may by proclamation:—

Automatic dissolution of Legislative Assembly of a State during elections.

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State;

(b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the object of the proclamation, including provisions for suspending the operation of any provision of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.

(2) A proclamation shall cease to operate on the expiration of a period of six months from the date of issue of the proclamation or from the date on which the new Chief Minister of the State enters upon his office, whichever is earlier."

Amendment of
article 357.

3. In article 357 of the Constitution, in clause (1), for the words "under clause (1) of article 356", the words "under clause (1) of article 356 or article 356A" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

It has been widely reported that during elections in the States the ruling party resorts to widespread rigging and manipulation of the electoral machinery. Party workers and State Government officials are appointed as presiding and polling officers and even police personnel drafted for duty at polling booths are used for partisan purposes. Also, the counting is manipulated on a large scale. It is, therefore, necessary in the interest of fair elections to promulgate proclamation by the President in the States during the time of elections, *i.e.* from the date of announcement of elections by the Election Commission until the new Chief Minister assumes the office.

The proclamation will automatically come into effect whenever elections are announced by the Election Commission in a State. During this period the President shall assume all the executive functions of the State Government and Parliament shall exercise all the legislative powers in respect of that State.

The proclamation shall cease to operate on the expiration of a period of six months from the date of issue of the proclamation or from the date on which the new Chief Minister of the State enters upon his office, whichever is earlier.

The Bill, if enacted, will prove an effective measure to check misuse of Government machinery by the ruling party in the States and will give a boost to fair and democratic process during elections in the States.

Hence this Bill.

NEW DELHI;
February 28, 2003

NITISH SENGUPTA.

BILL NO. 47 OF 2003

A Bill to abolish the child labour in the country and for matters connected therewith.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Abolition of Child Labour Act, 2003.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this act unless the context otherwise requires —

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "child" means a boy or girl below the age of eighteen years; and

(c) "employer" means a person who engages a child in a job or in an employment and who has ultimate control over the affairs of an establishment including shop, house, agriculture or any other work.

Abolition of
child labour.

3. Child labour in any form in any establishment in the country is hereby abolished.

Punishment for
violation of the
Act.

4. Any person, who engages a child in any employment shall be punished with imprisonment for a term of one year and a fine of rupees one lakh.

5. Any parent or a lawful guardian of a child who is found to have coerced his child into employment shall be punished with imprisonment for a term of two years. Punishment to parents for coercion.
6. After this Act comes into force, any organisation or an establishment which is found to have engaged a child in a job or in an employment shall be closed. Closure of an organisation/ establishment engaging child labour.
7. (1) Any child found engaged in a job or in any employment or found collecting rags and waste shall immediately be taken into custody by the police. Establishment of children's home and rehabilitation.
- (2) Every child so picked up shall be sent to a children's home, to be established in every district by the appropriate Government, where the child shall be provided with facilities like education and maintenance till the age of eighteen years.
8. The provisions of this Act or rules made thereunder shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act. Provision of Act not in derogation of any other law for the time being in force.
9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

India has the largest number of child labour in the world. The official figure is 13 million. But the actual number may be much higher. Indian children are the source of cheap labour because they can be paid less or can be abused without provoking retaliation. These children work in industries such as cracker making, diamond polishing, glass, brass-ware, carpet weaving, bangle making, lock making and mica cutting to name a few. The overwhelming majority of working children are in unorganized, agricultural and allied sector. And a large number of children work as domestic servants. Poverty is cited as a major cause of child labour, but it is not the only determinant. Inadequate schools or even the expense of schooling leaves some children with little else to do but work. The attitude of parents also contribute to child labour. Compulsory elementary education may help in regard to this attitude. The gigantic problem of child labour cannot be eliminated in one stroke. Many countries have stopped buying products of industries where children are employed. However, this may be one step in the right direction. Only multidimensional strategies including compulsory elementary education, eradication of poverty, eradicating parental illiteracy, making child labour as illegal will help in achieving this objective. Stringent legal provisions, severe punishment for violation of laws, rehabilitation of children already engaged in jobs have to go along with abolition of child labour in the country. Therefore, it is hightime that a stringent law for abolition of child labour is brought forward.

Hence this Bill.

NEW DELHI;
July 2, 2003

IQBAL AHMED SARADGI.

FINANCIAL MEMORANDUM

Clause 7(2) provides for establishment of a children's home in every district for rehabilitation of children engaged in a job or in an establishment. The Central Government would have to incur expenditure from the Consolidated Fund of India for establishment of children's homes in respect of Union territories. The State Governments will incur expenditure from their respective consolidated funds for children's homes to be established in their respective States. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees Fifty Crore per annum. A non-recurring of about rupees One Crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of normal character.

BILL NO. 57 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2003.

Short title.

2. In article 243ZD, in clause (2), in sub-clause (b), after the existing proviso, the following proviso shall be inserted, namely:—

Amendment of
article 243ZD.

"Provided further that the member of the House of the People and member or members of the State Legislative Assembly representing the Constituency in which the district or a major portion thereof falls shall also be nominated as members, with voting rights, of such Committee."

3. In article 243ZE, in clause (2), in sub-clause (b), after the existing proviso, the following proviso shall be inserted, namely:—

Amendment of
article 243ZE.

"Provided further that the member of the House of the People and member or members of the State Legislative Assembly representing the Constituency in which the metropolitan area or a major portion thereof falls shall be nominated as members, with voting rights, of such Committee."

STATEMENT OF OBJECTS AND REASONS

In every State there is provision for constitution of District Planning Committees and Metropolitan Planning Committees to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district and metropolitan area, respectively.

Though members of the House of the People and the members of the State Legislative Assemblies can recommend plans and projects from Local Area Development Fund, they are not nominated with voting rights to those Planning Committees. It would, therefore, be appropriate, if provision is made to nominate them to those Committees to enable them to contribute to the development plans intellectually and financially.

Hence this Bill.

NEW DELHI;
July 22, 2003

RAMESH CHENNITHALA.

BILL NO. 56 OF 2003

A Bill further to amend the Railways Act, 1989.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Railways (Amendment) Act, 2003.

Short title and
commence-
ment.

(2) It shall come into force at once.

24 of 1989.

2. After section 124A of the Railways Act, 1989, the following section shall be inserted, namely:—

Insertion of
new section
124B.

“124B(1), Every passenger shall be compulsorily insured for loss of life or disability due to any accident and the premium thereof shall be charged along with fare of ticket:

Provided that different rates of premium may be charged for different classes of travel:

Provided further that different amount may be fixed for loss of life or in case of each disability.

(2) For the purposes of sub-section (1), the railways may enter into contract with insurance companies.

(3) In case of an accident, the insurance amount, *i.e.* assured sum shall be paid to the dependent in case of death of passenger or to the passenger in case of disability.

(4) An application for settlement of claim for insurance amount shall be presented to such authority and in such form and manner, as may be prescribed.”.

STATEMENT OF OBJECTS AND REASONS

In recent years, railway accidents are frequent. There is a heavy toll of lives in almost every accident. Besides, several passengers lose their limbs and become disabled. There is a provision for payment of claim in respect of loss of life or disability on the basis of award given by Tribunals. However, the compensation amount is not sufficient for the family of the deceased to lead a decent life. Therefore, it is proposed that each and every passenger shall be compulsorily insured. Since meager premium in this regard may not be significant, it may not be a burden to the passengers. There is a similar provision in regard to air journey in the country.

Hence this Bill.

NEW DELHI;
July 22, 2003

V. SAROJA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rule will relate to matters of details only, the delegation of legislative power is of normal character.

BILL NO. 61 OF 2003

A Bill further to amend the Prevention of Food Adulteration Act, 1954.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Food Adulteration (Amendment) Act, 2003.

Short title and
commence-
ment.

(2) It shall come into force at once.

37 of 1954

2. In section 2 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the principal Act), in clause (v), for the words “drink for human consumption other than drugs and water and includes—”, the words, “drink, including water, for human consumption other than drugs and includes—”, shall be substituted.

Amendment of
section 2.

3. In section 16 of the principle Act—

Amendment of
section 16.

(i) in sub-section (1),—

(a) for the words, “six months but which may extend to three years, and with fine which shall not be less than one thousand rupees”, the words, “five years but which may extend to ten years and with fine which shall not be less than one lakh rupees”, shall be substituted;

(b) in the first proviso, for the words, "three months but which may extend to two years, and with fine which shall not be less than five hundred rupees", the words, "five years but which may extend to ten years with fine which shall not be less than one lakh rupees", shall be substituted.

(ii) in sub-section (1A),—

(a) in clause (ii), for the words, "one year but which may extend to six years and with fine which shall not be less than two thousand rupees", the words, "five years but which may extend to ten years and with fine which shall not be less than one lakh rupees", shall be substituted;

(b) in the proviso, for the words, "five thousand rupees", the words, "one lakh rupees", shall be substituted;

(iii) in sub-section (1B), for the words, "five thousand rupees", the words, "rupees one lakh", shall be substituted;

(iv) in sub-section (1C), for the words, "six months and with fine which shall not be less than five hundred rupees.", the words, "ten years and with fine which shall be less than fifty thousand rupees.", shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Recently, certain cases of fake and spurious mineral water sold in market came to notice when tested for quality. The quality of mineral water marketed by even some reputed and multinational companies were found to be sub-standard. Stringiest tests of these packaged drinking water brought to light that the samples contained pesticides far above the international norms. Consumption of sub-standard mineral water jeopardises the health of the consumers.

At present, there is no adequate mechanism to check the quality and standard of mineral water. Ignorant consumers get cheated by reputation of these companies. The Prevention of Food Adulteration Act, 1954 specifically excludes "water" from the purview of the Act. When it was enacted in 1954, sale of "water" was not a common phenomenon. At present, sale of mineral water is a common feature in every nook and corner of the country and the companies engaged in this business earn huge profits by selling sub-standard water.

Hence, it is proposed to bring "water" within the purview of the Prevention of Food Adulteration Act, 1954.

Moreover, the existing provisions in the Act regarding penalties are inadequate. Therefore, it is proposed to enhance penalties suitably so as to make them deterrent.

Hence this Bill.

NEW DELHI;
July 22, 2003

V. SAROJA.

BILL NO. 60 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2003.

Amendment of
article 275.

2. In article 275 of the Constitution, in the clause (1), after the second proviso, the following proviso shall be inserted, namely:—

"Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenue of the State of Kerala every year to the tune of rupees one thousand crore for developmental and infrastructural works."

STATEMENT OF OBJECTS AND REASONS

Kerala is an important tourist destination. With its natural splendour and national health centres, Kerala attracts a large number of foreign tourists. Lack of infrastructural facilities however, hampers promotion of tourism and realisation of its full potential. Though, tourism generates considerable income, it does not provide sufficient funds for development of infrastructural facilities to the desired level. It is therefore, essential that Central Government provides sufficient funds by way of grants-in-aid for development of tourism in Kerala.

Hence this Bill.

NEW DELHI;
July 22, 2003

RAMESH CHENNITHALA.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that a sum of rupees one thousand crore shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenue of the State of Kerala per annum for developmental and infrastructural works.

This will involve recurring expenditure from the Consolidated Fund of India to the tune of rupees one thousand crore per annum. No non-recurring expenditure would be involved from the Consolidated Fund of India.

BILL NO. 55 OF 2003

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of
new section
389 A.

2. After section 389 of the Code of Criminal Procedure, 1973, the following section shall be inserted, namely:— 2 of 1974

Provision for
entertaining
appeal or
Special Leave
Petition

"(1) Notwithstanding anything contained in this Code or the Rules framed by the Supreme Court of India under article 145 of the Constitution of India or any other law for the time being in force, the Supreme Court or High Court may entertain an appeal by a convicted person by means of Special Leave or otherwise without insisting on the production of the surrender certificate of the sentence and conviction of which is the subject matter of the appeal:

Provided that the person is sentenced to imprisonment for a term not exceeding three years or where the offence of which such person had been convicted is a bailable one and he is on bail.

(2) If an appeal filed by the convicted person has been admitted by the Supreme Court or the High Court and the same is not being disposed of for more than a year from the date of posting of the matter before the Court for hearing not due to the reason attributable to the Appellant, he shall be entitled to be released on bail or on his own bond on any of the conditions which the Court may think reasonable till the hearing of the appeal by the Supreme Court or High Court:

Provided that it shall not be applicable to persons sentenced to death.

STATEMENT OF OBJECTS AND REASONS

It is a well known fact that in many High Courts and Supreme Court Criminal Appeals are pending for years together. Persons punished for long period of sentence or life imprisonment are languishing in jails without any bail on the presumption that their appeals would be heard and disposed of. In number of cases if the convicted person's appeal ends in success, irreparable damage is caused to the person since he had already undergone the imprisonment. There is no provision to claim damages for the jail sentence undergone by him during the pendency of the appeals. Similarly, if a convicted person wants to file a Special Leave Petition before the Supreme Court of India even if the sentence is for a short period of three months or fifteen days, he has to produce a surrender certificate that he had surrendered and undergone imprisonment. By the time, the Supreme Court disposes of the appeals, the convicted person might have already undergone the sentence and the appeal becomes infructuous. The same principle applies irrespective of the length of sentence. Therefore, the jail sentence undergone during the pendency of an appeal is in violation of human rights. Even if the person ultimately succeeds in his appeal the sentence already undergone by him cannot be repaired or compensated. Therefore, it is highly necessary to bring this amendment to the Code of Criminal Procedure by introducing section 389-A. Article 145 of the Constitution of India enables Supreme Court to make provisions for regulating general practice and procedure of the Court. However, the above power is subject to the provisions of any law made by the Parliament. Hence, the proposed amendment to the Code of Criminal Procedure, 1973 are well within the competence of the Parliament.

NEW DELHI;
July 22, 2003

P. H. PANDIAN.

BILL NO. 52 OF 2003

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2003.

(2) It shall come into force at once.

Amendment of
article 302.

2. After section 302 of the Indian Penal Code, 1860, the following proviso shall be added at the end, namely:— 45 of 1860.

"Provided that punishment of death sentence shall be awarded only under the following circumstances:—

(a) if the murder is premeditated and involves extreme brutality; or

(b) if the murder involves exceptional depravity; or

(c) if the murder is of a member of any of the armed forces of the Union or of a member of any police force or of any public servant and was committed—

(i) while such member or public servant was on duty; or

(ii) in consequence of anything done or attempted to be done by such member or public servant in the lawful discharge of his duty irrespective of whether at the time of murder he was such member or public servant, or had ceased to be such member or public servant; or

2 of 1974.

(d) if the murder is of a person who had acted in the lawful discharge of his duty under section 43 of the Code of Criminal Procedure, 1973 or who had rendered assistance to a Magistrate or a police officer demanding his aid or requiring his assistance under section 37 and section 129 of the said Code; or

(e) any murder of a rape victim; or

(f) if the accused has committed murder more than once; or

(g) if murder of the victim has been committed after gang rape; or

(h) if murder has been committed after robbery or dacoity; or

(i) in case the death of a victim is due to demand of dowry; or

(j) if murder has been committed while indulging in subversive or anti-national activities.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court by majority in its judgments in Rajender Prasad's case, Edigma's case, Jagmohan's case, and in Bachan Singh *Vs* State of Punjab (Reported in AIR 1980 SC) has listed out the aggrieving factors for a commission of murder and mitigating circumstances to enable the judge to pass a lesser sentence and asked the Parliament to supply clear guidelines for the sentencing judge to award the death sentence or life imprisonment. The Parliament by an Act of 1926 of 1955 has amended Section 367, clause (v) of Criminal Procedure Code of 1898. The amendment reads as follows:

"(5) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed."

Section 302 of the Indian Penal Code provides for punishment of death sentence or life term imprisonment in case of murder. But no criteria have been laid down for award of death sentence. There has been an intense debate in and outside Parliament over many years regarding awarding of capital punishment. Some legal luminaries have advocated abolition of capital punishment while some have advocated laying down criteria for awarding this highest punishment. In murders involving serious and severe crimes, the accused ought to be given death sentence. An exception, however, should be made in murders involving less serious crimes. Life imprisonment is a rule and death sentence is an exception under section 354(3) of Criminal Procedure Code. Therefore, it is proposed to amend the Indian Penal Code, 1860 to provide guidelines for award of death sentence.

NEW DELHI;
July 22, 2003

P. H. PANDIAN.

BILL NO. 53 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2003. Short title.
2. In part IVA of the Constitution, in article 51A, in clause (e), after the words, "dignity of women;" the words "to protect and safeguard them from harassment, mental and physical abuse and to desist from giving or taking dowry or encouraging or advocating the same;" shall be added at the end. Amendment of article 51A.

STATEMENT OF OBJECTS AND REASONS

Women constitute half of total population in the country. But they are harassed, abused, insulted and neglected. Of late, there has been a spurt in dowry related cases resulting in death. Punishment of culprits involves a long time lag. Cases in courts linger long. But law alone cannot prevent this. It is necessary to educate people and to sensitize them in gender related issues. It is the duty of every citizen of the country to renounce violence against women, desist from giving or taking dowry and protect women from crimes. It is, accordingly, proposed to amend the Constitution so as to include this aspect as a fundamental duty of every citizen.

NEW DELHI;
July 22, 2003

V. SAROJA.

G. C. MALHOTRA,
Secretary-General.